

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF )  
BURNHAM CONSTRUCTION COMPANY, )  
 )  
Appellant, )  
 )  
v. )  
 )  
PUGET SOUND AIR POLLUTION )  
CONTROL AGENCY, )  
 )  
Respondent. )

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PCHB No. 941

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

Nature of case: Two \$250 civil penalties for allegedly causing  
or allowing an outdoor fire in violation of  
Section 9.02 of Regulation 1.

Formal hearing: April 1, 1976, Lacey, Washington.

Board members present: Chris Smith, Chairman, W. A. Gissberg,  
and Walt Woodward.

Presiding officer: David Akana, hearing examiner.

Court reporter: Sherri Darkow.

For appellant: Robert Churchill, Manager.

For respondent: Keith D. McGoffin, attorney.

FINDINGS OF FACT

1. On October 7, 1975 near Arlington, Snohomish County, appellant caused an outdoor fire without a permit. Scrap lumber from the remains of concrete forms was found in the fire by respondent's inspector. For this occurrence, respondent issued a notice of violation and notice of civil penalty wherein appellant was assessed a \$250 civil penalty. Appellant does not deny the violation, but appealed this matter seeking mitigation of the penalty.

2. On October 16, 1975, at the same location, appellant's new employees, who did not know of the burning regulations, caused an outdoor fire without a permit. Scrap lumber from concrete forms was burned in the fire. For this occurrence, respondent issued a notice of violation and a notice of civil penalty wherein appellant was assessed a \$250 civil penalty. Appellant does not deny the violation, but appealed this second matter seeking mitigation of the penalty.

3. Appellant has one previous violation for an unlawful outdoor fire for which it was assessed, and for which it paid, a \$25 civil penalty. At this time, appellant was burning scrap lumber at a bridge construction site.

4. The \$250 civil penalties assessed on October 7, and October 16, 1975 are reasonable in amount.

5. Pursuant to RCW 43.21B.260, respondent's Regulation 1 is noticed.

6. Any Conclusion of Law hereinafter stated which may be deemed a Finding of Fact is hereby adopted as such.

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

CONCLUSIONS OF LAW

1. Appellant violated Section 9.02 of Regulation 1 by causing an open fire and burning prohibited material on October 7 and October 16, 1975.

2. The \$250 civil penalty assessed for the violation on October 7, 1975 pursuant to Section 3.29 of Regulation 1 is reasonable in amount and should be affirmed.

3. The \$250 civil penalty assessed for the violation on October 16, 1975 pursuant to Section 3.29 of Regulation 1 is reasonable in amount and should be affirmed.

4. We note that two persons, in addition to appellant, have also been assessed the same penalties at issue today. If these two other persons have not appealed the assessment of the penalties, they would appear to be as liable as appellant is held to be for the penalties assessed herein.

5. Any Finding of Fact which should be deemed a Conclusion of Law is hereby adopted as such.

ORDER

1. The \$250 civil penalty assessed by respondent upon appellant for the violation occurring on October 7, 1975 should be and the same is hereby affirmed.

2. The \$250 civil penalty assessed by respondent upon appellant for the violation occurring on October 16, 1975 should be and the same is hereby affirmed.

DONE at Lacey, Washington, this sixth day of April, 1976.

POLLUTION CONTROL HEARINGS BOARD

Chris Smith  
CHRIS SMITH, Chairman

W. A. Gissberg  
W. A. GISSBERG, Member

Walt Woodward  
WALT WOODWARD, Member

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER